

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

In Re: Private Letter Ruling Request

Refer Reply To:
CC:PSI:B04
PLR-100403-12

Date:
April 16, 2012

Legend:

Taxpayer =
Trust =
Year 1 =

Dear :

This letter responds to your authorized representative's letter of December 22, 2011, requesting an extension of time pursuant to § 2642(g) of the Internal Revenue Code and § 301.9100-3 of the Procedure and Administration Regulations to allocate Taxpayer's generation-skipping transfer (GST) exemption to Trust.

The facts and representations submitted are summarized as follows. In Year 1, Taxpayer established Trust. Trust has GST potential. Also in Year 1, Taxpayer contributed cash to Trust. Taxpayer retained qualified tax professionals to prepare his Year 1 Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return. Taxpayer's GST exemption, however, was not allocated to this gift Trust. Taxpayer represents that he has available GST exemption to allocate to this gift.

Taxpayer is requesting an extension of time pursuant to §§ 2642(g) and 301.9100-3 to allocate his available GST exemption to his Year 1 gift to Trust.

Law and Analysis:

Section 2601 imposes a tax on every generation-skipping transfer. A generation-skipping transfer is defined under § 2611(a) as (1) a taxable distribution, (2) a taxable termination, and (3) a direct skip.

Section 2631(a) provides, for the years at issue, that for purposes of determining the inclusion ratio, every individual shall be allowed a GST exemption of \$1,000,000 (adjusted for inflation) which may be allocated by such individual (or his executor) to any

property with respect to which such individual is the transferor. Section 2631(b) provides that any allocation under § 2631(a), once made, shall be irrevocable.

Section 2642(g)(1)(A) provides that the Secretary shall by regulation prescribe such circumstances and procedures under which extensions of time will be granted to make an allocation of GST exemption described in § 2642(b)(1) or (2), and an election under § 2632(b)(3) or (c)(5). Such regulations shall include procedures for requesting comparable relief with respect to transfers made before the date of the enactment of this paragraph.

Section 2642(g)(1)(B) provides that in determining whether to grant relief, the Secretary shall take into account all relevant circumstances, including evidence of intent contained in the trust instrument or instrument of transfer and such other factors as the Secretary deems relevant. Section 2642(g)(1)(B) further provides that for purposes of determining whether to grant relief, the time for making the allocation shall be treated as if not expressly prescribed by statute. See Notice 2001-50, 2001-2 C.B. 189.

Section 301.9100-3 provides the standards used to determine whether to grant an extension of time to make an election whose date is prescribed by a regulation (and not expressly provided by statute). In accordance with § 2642(g)(1)(B) and Notice 2001-50, taxpayers may seek an extension of time to make an allocation described in § 2642(b)(1) or (b)(2) or an election described in § 2632(b)(3) or (c)(5) under the provisions of § 301.9100-3.

Requests for relief under § 301.9100-3 will be granted when the taxpayer provides the evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government.

Section 301.9100-3(b)(1)(v) provides that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Based on the facts submitted and the representations made, we conclude that the requirements of § 301.9100-3 have been satisfied. Therefore, Taxpayer is granted an extension of time of 120 days from the date of this letter to allocate his available GST exemption to the Year 1 gift to Trust. The allocation will be effective as of the date of the transfer and will be based on the fair market value for federal gift tax purposes of the transfer on the date it was made.

Taxpayer should make the allocation on a supplemental Form 709 for Year 1. Taxpayer should file the supplemental Form 709 with the Cincinnati Service Center at

the following address: Internal Revenue Service Center, Cincinnati, OH 45999. A copy of this letter should be attached to the supplemental Form 709.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to Taxpayer. Section 6110(k)(3) provides that it may not be used or cited as precedent.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

Lorraine E. Gardner

By: _____
Lorraine E. Gardner
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